



Ministerie van Financiën

NL enhanced relationship & TP risk assessment

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Transfer Pricing | 26 October 2011



Content

- Enhanced relationship/
horizontal monitoring
- Transfer pricing



Strategic goal of the NTCA

- The NTCA strives for voluntary compliance rather than enforcing compliance, where possible.

Background

- comments from business:
 - culture of creating controversies
 - fishing expeditions instead of goal-oriented
 - limited possibilities to get certainty in advance
 - backlog of 7 to 8 years no exception



Additional triggers

- NTCA own experiences:
 - relationship with businesses not perfect
 - difficult to work in the past

- More attention for internal and external control systems within the Large Businesses (LB):
 - Corporate Governance Codes, SOx, OECD MNE Guidelines
 - IFRS

- Growing importance of tax awareness in risk management control systems



Goals

- Improving compliance
- Improving service level for businesses
- Improving the tax climate
- Based on mutual trust, transparency and understanding
- Working in real time
- Certainty in advance
- Reducing the administrative burden



Individual compliance agreements MNE's

- Pilot with about 40 MNEs
- Commitment on the highest level (Board to Board)
- Agreement on the manner and the intensity of supervision
- All taxes and tax collection
- Within the boundaries of the law, tax policy and jurisprudence



Characteristics of a compliance agreement

- MNE submits significant tax risks real time to the tax administration
- MNE submits facts and its view on tax consequences
- No obligation to disclose tax advice
- Tax administration in return quickly provides his view on the tax consequences
- Certainty of tax position
- Solution for pending tax issues in past years



Tax control framework

Importance of organizing trust - trustworthiness

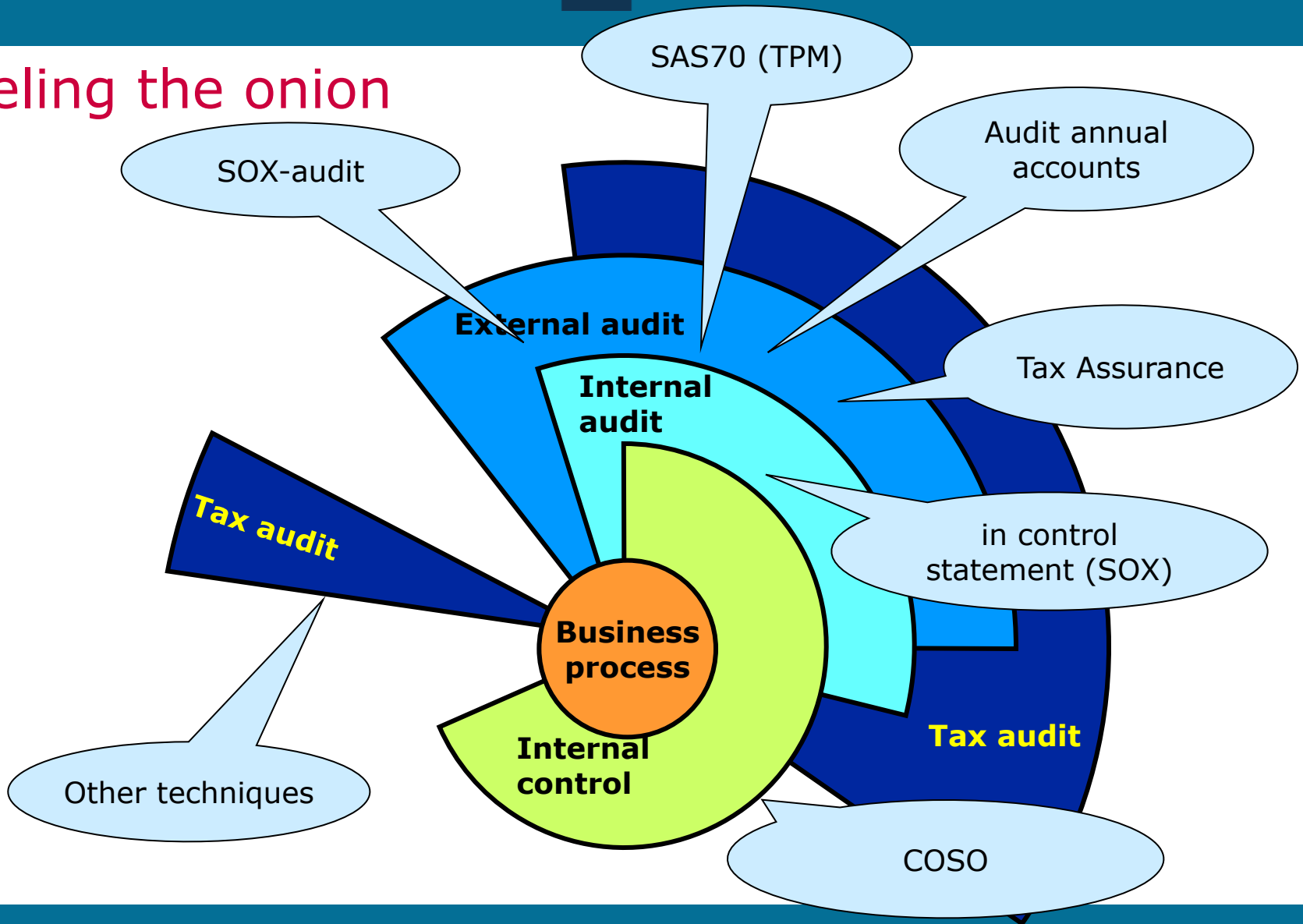
Letter of 9 June, 2006 State Secretary of Finance to the Netherlands Parliament:

"I emphasize that compliance agreements will be concluded with companies that have an adequate tax control framework"

Reference to IFRS and the American Sarbanes-Oxley Act

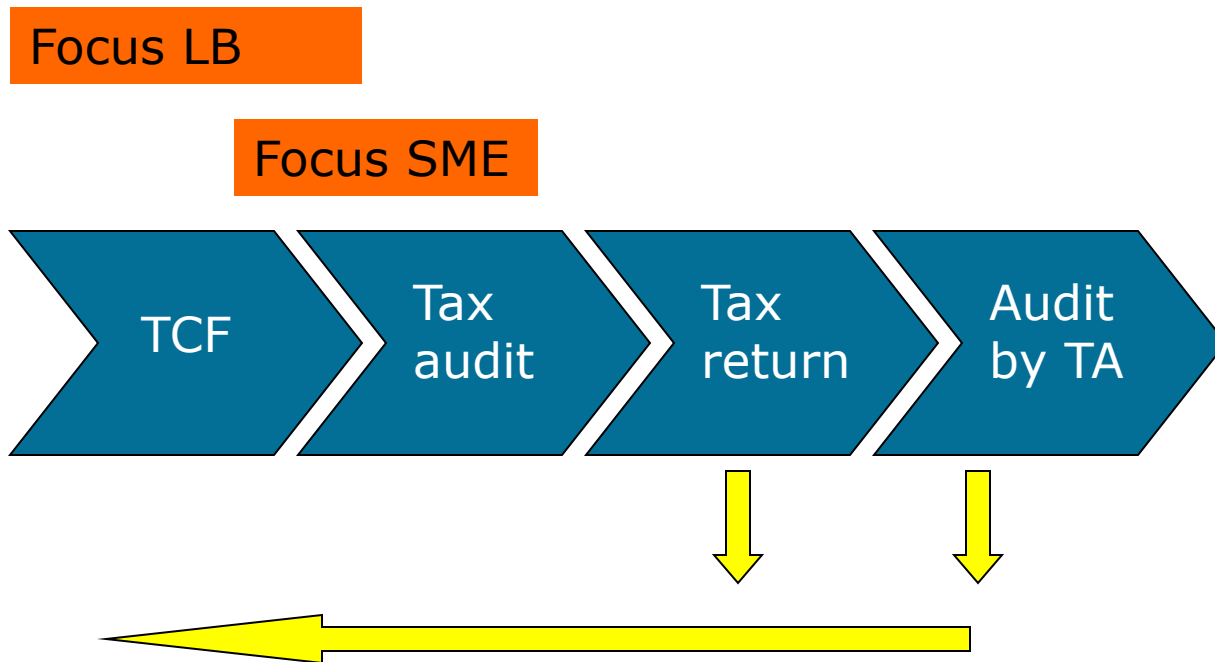


Peeling the onion





Shift of focus in the tax process





Evaluation first pilot

MNE's

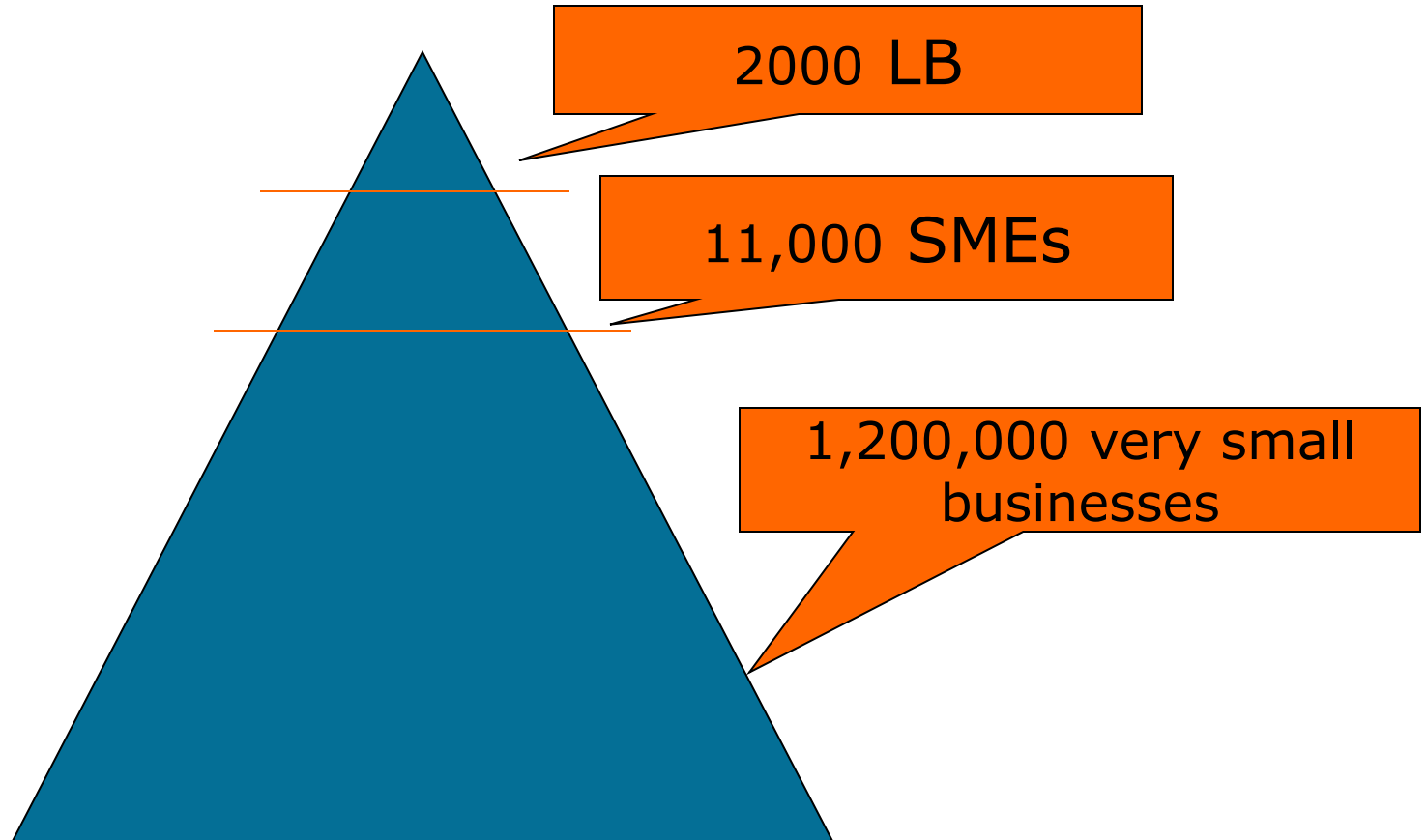
- dealing with issues in real time
- reduction of uncertainties
- reduction of administrative burden

Staff of the NTCA

- dealing effectively and efficiently with current issues
- internal processes have speeded up
- MNEs are more transparent
- involvement management is an improvement



Segments





Horizontal monitoring SME's

- Building a common tax control framework together with tax intermediaries
- Solving compliance issues in advance with trade and industry organizations



Change in culture and behaviour

- Problem-solving attitude
- Being able to build and maintain relations
- Empathic and listening capacities
- Decision making capacities
- Knowledge on meta-communication
- Mutual trust
- Continuous dialogue, also on the process and the behaviour of parties involved



International developments

- OECD Communiqués
- OECD studies
- FTA reports
- Pilot-project on cooperating with multinational businesses



To the future (and beyond)

past

present

future

MAP



BAPA

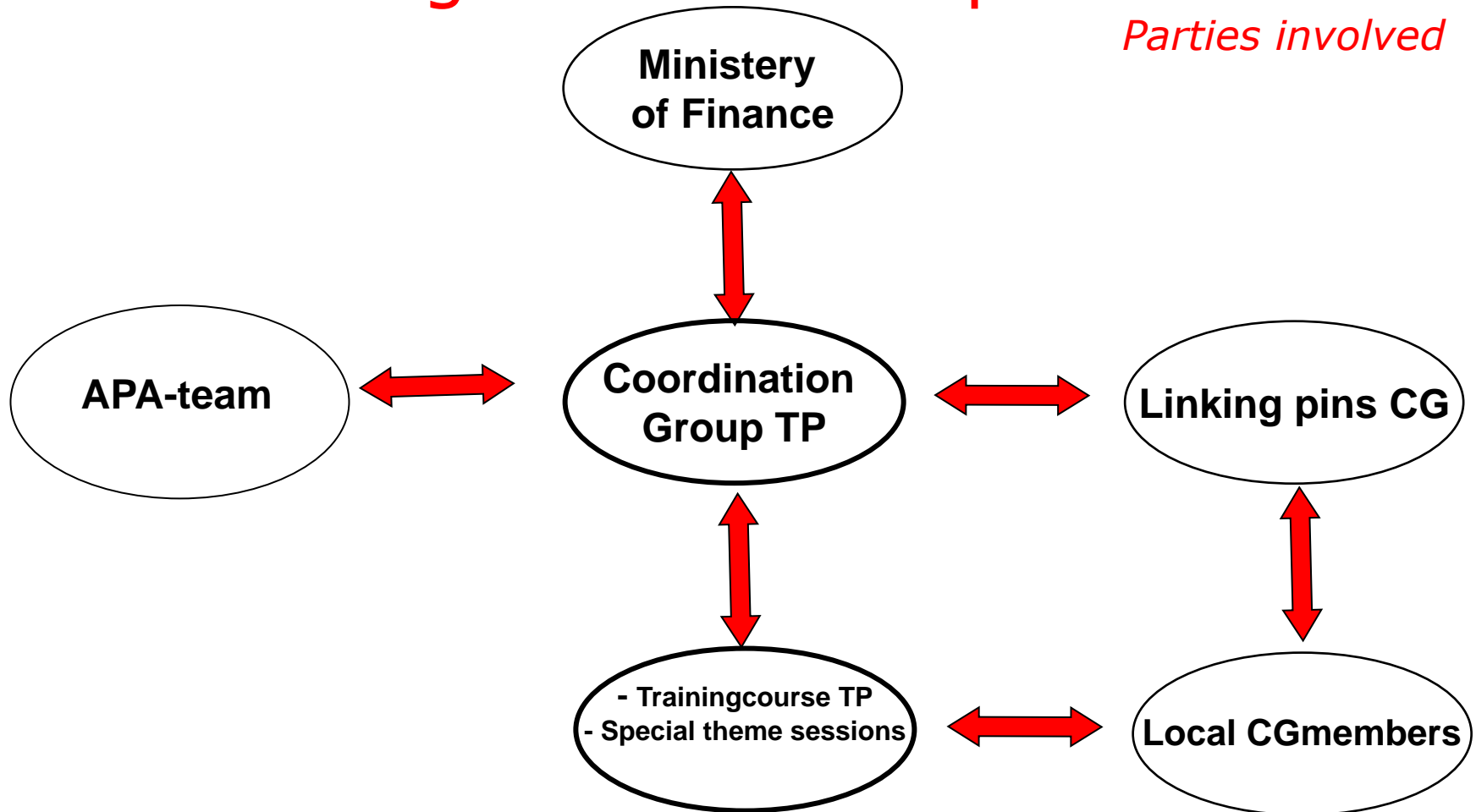


Enhanced Relationship



Organisational aspects

Parties involved





TP considerations

- Key words horizontal monitoring: transparency, mutual trust and tax control framework
- Focus on material TP tax risks together with taxpayer try and find real time solutions
- Education TA on both soft skills (ER) and on technical TP issues:
 - through TP training and special theme sessions
 - check economic reality of substantial transactions
- Investigate room for simplification measures. For less material tax risks we try to keep things as simple as possible.